

REMARKS

Claims 1-17, 20 and 27-33 are pending in the application. Claims 1, 3 and 20 are currently amended. Claims 21-26 are withdrawn from consideration. Claims 18-19 are cancelled herein. Claims 27-33 are added herein.

Applicants hereby affirm the election of species A without traverse. In response to the restriction requirement, Claims 21-26 have been withdrawn from further consideration by the Examiner as being drawn to a non-elected invention.

The Examiner rejected Claims 1, 3, 5 and 12-17 under 35 U.S.C. § 102(e) as being clearly anticipated by U.S. Patent No. 6,102,896 to Roser (hereinafter “Roser”). Applicants respectfully traverse the Examiner’s rejections under 35 U.S.C. § 102(e). The Examiner has not indicated how Roser anticipates each and every element of the rejected claims. Applicants respectfully submit that contrary to the Examiner’s assertion, Roser does not teach or suggest “a second therapeutic supported with said housing, said first therapeutic and said second therapeutic being individually dispensable from said housing” as claimed in each of the rejected claims under 35 U.S.C. § 102(e). Rather, Roser discloses “a single use injector device for injecting parenteral medications” (col. 4, lines 46-47). In the examples of Roser describing the injection of two separate medications, Applicants submit that the medications are not individually dispensable. Accordingly, Applicants respectfully submit that the Examiner’s rejections under 35 U.S.C. § 102(e) are improper.

Claim 1 is amended herein to more clearly describe the invention. Applicants respectfully submit that none of the cited references contain each of the elements of Claim 1 as amended. Reconsideration of the rejected claims is respectfully requested.

The Examiner rejected Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Roser in view of U.S. Patent No. 3,702,608 to Tibbs, Claims 4, 7, 11, 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Roser in view of U.S. Patent Publication No. US2002/0013522 to Lav et al., Claims 6 and 8-10 under 35 U.S.C. § 103(a) as being

unpatentable over Roser in view of U.S. Patent No. 6,520,938 to Funderburk et al. and Claim 20 under 35 U.S.C. § 103(a) over Roser in view of Tibbs, Funderburk and Lav.

Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a). Applicants respectfully submit that neither Tibbs, Lav or Funderburk overcome the deficiencies of Roser as submitted by Applicants above. Since none of the cited references teaches or suggests a second therapeutic supported with said housing said first therapeutic and said second therapeutic being individually dispensable from said housing, the Examiner has not established *prima facia* obviousness under 35 U.S.C. § 103(a) with respect to Claims 4 and 6-11. Accordingly, the rejections of Claims 4 and 6-11 are improper.

Applicants further submit that contrary to the Examiner's characterization, Claim 20 is not simply a mere compilation of subject matter addressed above. Rather, Claim 20 includes "a handle defining a channel and a pair of arms extending from a proximal end thereof..." Since none of the cited references teach or suggest a pair of arms extending from a proximal end of the handle, Applicants submit that the Examiner has not made a *prima facia* case of obviousness under 35 U.S.C. § 103(a) with respect to Claim 20. Accordingly, the rejection of Claim 20 is improper.

Applicants further submit that the amendments submitted herewith to Claims 1, 3 and 20 more clearly define the invention in a way that is not taught or suggested by any of the cited references. Claims 18 and 19 are cancelled. Applicants respectfully request the Examiner's reconsideration of the claims in light of the present amendment.

CONCLUSION

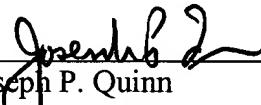
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. The Examiner is invited and encouraged to telephone the undersigned with any concerns in furtherance of the prosecution of the present application.

Please charge any deficiency as well as any other fee(s) which may become due at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 50-0369. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 50-0369 therefor.

Respectfully submitted,

3/22/04

Dated:


Joseph P. Quinn
Reg. No. 45,029
Customer No. 21710
Attorney for Applicant(s)
BROWN RUDNICK BERLACK ISRAELS LLP
One Financial Center
Box IP
Boston, MA 02111
Tel: 617-856-8396
Fax: 617 856-8201